



COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (“PRA”), this notice announces that the Information Collection Request (“ICR”) abstracted below has been forwarded to the Office of Information and Regulatory Affairs (“OIRA”), of the Office of Management and Budget (“OMB”), for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Written comments and recommendations for the proposed information collection should be submitted within 30 days of this notice's publication to OIRA, at <https://www.reginfo.gov/public/do/PRAMain>. Please find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the website’s search function. Comments can be entered electronically by clicking on the “comment” button next to the information collection on the “OIRA Information Collections Under Review” page, or the “View ICR—Agency Submission” page. A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting <https://www.reginfo.gov/public/do/PRAMain>.

In addition to the submission of comments to <https://Reginfo.gov> as indicated above, a copy of all comments submitted to OIRA may also be submitted to the Commodity Futures Trading Commission (the “Commission” or “CFTC”) by clicking on the “Submit Comment” box next to the descriptive entry for OMB Control No. 3038-0024, at <https://comments.cftc.gov/FederalRegister/PublicInfo.aspx>.

Or by either of the following methods:

- *Mail*: Christopher Kirkpatrick, Secretary of the Commission, Commodity

Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

- *Hand Delivery/Courier*: Same as Mail above.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments submitted to the Commission should include only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.¹ The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <https://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Jennifer Bauer, Special Counsel, Market Participants Division, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581; (202) 418-5472; email: jbauer@cftc.gov.

SUPPLEMENTARY INFORMATION:

¹ 17 CFR 145.9.

Title: Regulations and Forms Pertaining to the Financial Integrity of the Marketplace (OMB Control No. 3038-0024). This is a request for an extension of a currently approved information collection.

Abstract: The Commission is the independent federal regulatory agency charged with providing various forms of customer protection so that users of the commodity markets can be assured of the financial integrity of the markets and the intermediaries that they employ in their trading activities. Part 1 of the Commission's regulations requires, among other things, that commodity brokers --known as futures commission merchants ("FCMs"), or Introducing Brokers ("IBs"), comply with certain minimum financial requirements. In order to monitor compliance with these financial standards, the Commission has required FCMs and IBs to file financial reports with the Commission and with the designated self-regulatory organization of which they are members as well as to report to the Commission should certain financial requirements drop below prescribed minimums.

In 2008, the US Congress passed the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, 122 Stat. 1651, 2189-2204 (2008), also known as the Farm Bill. The Farm Bill provided the Commission with new authority with regard to the regulation of off-exchange retail forex transactions. Among other things, it directed the Commission to draft rules effectuating registration provisions for a new category of registrant – the retail foreign exchange dealer ("RFED"). Under the terms of the legislation, RFEDs are subject to the same capital requirements as FCMs that are engaged in retail forex transactions, and, therefore, subject to the same reporting requirements. Accordingly, this collection was amended to reflect the financial reporting requirements of the new category of registrant, RFEDs.

In 2010, the US Congress passed the Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"), Pub. L. No. 111-203, 124 Stat. 1376 (2010),

giving the Commission the authority to regulate certain swap markets and participants in those markets. Section 731 of the Dodd-Frank Act, amended the Commodity Exchange Act (“CEA”), 7 U.S.C. 1 *et seq.*, to add, as section 4s(e) thereof, provisions concerning the setting of capital and initial and variation margin requirements for swap dealers (“SDs”) and major swap participants (“MSPs”). In 2016 and 2020 respectively, the Commission finalized the Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants rule and the Capital Requirements for Swap Dealers and Major Swap Participants rule to implement those requirements. Specifically, such rules include financial reporting and recordkeeping, as well as application processes for model approval for both capital and margin models for SDs and MSPs that do not have a prudential regulator (“Covered Swap Entities” or “CSEs”).

Separately, in 2013, the Commission finalized rules in an effort to prevent unauthorized usage of customer funds by FCMs and RFEDs. The final rules included modifications to the reporting requirements required by the Commission which resulted in changes to the financial statements filed by FCMs and RFEDs, and made some of the recordkeeping requirements already contained in this OMB Collection Number 3038-0024 into reporting requirements. These rules added additional recordkeeping requirements by FCMs to assure the segregation of customer funds. This collection, OMB Control No. 3038-0024, is needed for the Commission to continue its financial monitoring of its registrants.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. On April 29, 2022, the Commission published in the Federal Register notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed extension, 87 FR 25468 (“60-Day Notice”). The Commission did not receive any relevant comments on the 60-Day Notice.

Burden Statement: The Commission is revising its estimate of the burden for this collection to reflect the current number of respondents and estimated burden hours. The Commission is revising its estimate of the burden for this collection for approximately 61 FCMs and RFEDs, 53 CSEs and 1,019 IBs. The respondent burden for this collection is estimated to be as follows:

Estimated Number of Respondents: 1,133.

Estimated Average Burden Hours Per Respondent: 251 hours².

Estimated Total Annual Burden Hours: 284,124 hours³.

Frequency of Collection: At various intervals.⁴

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: June 27, 2022.

Robert Sidman,

Deputy Secretary of the Commission.

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² Rounded off from 250.7714033.

³ This figure is derived from 250.7714033 (burden hours per respondent) x 1133 respondents = 284,124.

⁴ For example, FCMs have both daily and monthly financial reporting obligations, annual certified financial and compliance report obligations, and periodic notice requirements.